

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re: OTERO COUNTY HOSPITAL
ASSOCIATION, INC. (d/b/a
Gerald Champion Regional Medical Center,
d/b/a Mountain View Catering),

No. 11-11-13686 JR

Debtor.

DR. FRANK BRYANT,

Plaintiff,

v.

Adversary No. 11-1202 J

JOHN G. FRANCHINI, New Mexico
Superintendent of Insurance,

Defendant.

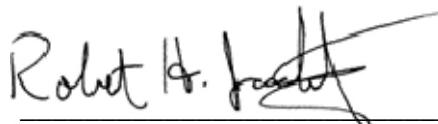
ORDER DENYING MOTION TO STRIKE THE STIPULATION OF DISMISSAL

THIS MATTER is before the Court on the Motion of Quorum Health Resources, LLC to Strike the Stipulation of Dismissal (“Motion to Strike Stipulation of Dismissal”). *See* Docket No. 21. The issues raised in the Motion to Strike Stipulation of Dismissal are inter-related with the issues raised in the Motion of Quorum Health Resources, LLC to Intervene as Plaintiff Pursuant to Rule 7054 of the Federal Rules of Bankruptcy Procedure (“Motion to Intervene”). *See* Docket No. 8. The Court held a final hearing on the Motion to Strike Stipulation of Dismissal and on the Motion to Intervene on April 2, 2012 and took the matters under advisement.

The Court has denied the Motion to Intervene for the reasons set forth in the Order Denying Motion of Quorum Health Resources, LLC to Intervene as Plaintiff Pursuant to Rule 7024 of the Federal Rules of Bankruptcy Procedure. *See* Docket No. 31. A pending motion to intervene does not automatically preclude the original parties to the lawsuit from agreeing to

settle.¹ The relevant inquiry is whether Quorum Health Resources, LLC's reasons for objecting to the Stipulation of Dismissal would be sufficient to constitute an interest requiring intervention. *See Alternative Research and Development Foundation v. Veneman*, 262 F.3d 406, 411 (D.C.Cir. 2001)(observing that the relevant inquiry was whether party's "concerns about the terms of the stipulated dismissal were sufficient to constitute an interest requiring intervention."). Quorum Health Resources, LLC's request to intervene has been denied. Consequently, its Motion to Strike Stipulation of Dismissal should also be denied.

WHEREFORE, IT IS HEREBY ORDERED that the Motion to Strike Stipulation of Dismissal is DENIED.



ROBERT H. JACOBVITZ
United States Bankruptcy Judge

Date entered on docket: April 6, 2012

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¹*See Eli Lilly and Co. v. Synthon Laboratories, Inc.*, 538 F.Supp.2d 944, 947 (E.D.Va. 2008)(observing that, generally, parties can voluntarily dismiss their case "even if a motion to intervene is pending and the potential intervenor objects[]" but suggesting that, in some instances, the court should invoke equitable principles to prevent the stipulating parties from prejudicing the potential intervenor's rights)(citation omitted).

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